

# 3511 POLK AVENUE



BUILDING AND STANDARDS BOARD AGENDA ITEM # 4 FOR  
WEDNESDAY, AUGUST 26, 2009

DEVELOPMENT SERVICES  
BUILDING PERMITS AND INSPECTIONS

MEMORANDUM  
August 17, 2009

TO: The Honorable Chairman and Board Members

THROUGH: Victor Q. Torres – The Director for Development Services

FROM: Bill Stern, C.B.O., Chief Building Inspector

SUBJECT: 3511 Polk, El Paso, Texas 79930

The following is a brief chronology of the investigation of the referenced location:

- 1) This single family dwelling was built in 1950. The property was condemned to be secured by the Building and Standards Commission on January 31, 2007. A recent investigation conducted on July 31, 2009 revealed the dwelling to be open and abandoned and being used as harborage by unwanted persons. The electrical, mechanical and plumbing systems are inadequate. The footings and foundation are inadequate to support the load causing shifting and settlement of the structure. The walls contain severe holes and cracks. The roof ceiling assembly and roof coverings have collapsed due to lack of maintenance and the exposed lumber shows signs of dry rot and deterioration. The wooden floors are deteriorated and have collapsed throughout the dwelling.
- 2) Certified notices of the public hearing scheduled for August 26, 2009, were mailed to the owners and all interested parties on August 13, 2009.
- 3) As of August 17, 2009, \$3,647.30 in taxes is owed.

The owners have been notified of the property maintenance violations at this property, to date there has been no response or corrective action taken, and therefore the Department recommends that it be found:

- 1) That the structure is substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the structure is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structure's certificate of occupancy remain revoked; and
- 4) That the structure cannot be rehabilitated; and
- 5) That the structure and carport be demolished within thirty (30) days; and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within 30 days; and
- 7) That upon failure by the owner or any other interested party to comply with the order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work which will be done by the City.

## **NOTICE OF PUBLIC HEARING**

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **26th** day of **August, 2009** in the Council Chambers of City Hall, #2 Civic Center Plaza, El Paso, Texas, the Building and Standards Commission of El Paso (the "**Commission**") will hold a public hearing on the question of whether the building located on the property at **3511 Polk Ave.**, in El Paso, Texas, which property is more particularly described as:

**Legal Description: Lots 11 and 12, Block 85, MORNINGSIDE HEIGHTS ADDITION to the City of El Paso, El Paso County, Texas.**

is unsafe and dangerous, because of the following violations:

- a. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- b. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].

According to the real property records of the County of El Paso, Andrea Rodriguez, 4336 Buckingham Drive, El Paso, Texas, 79902 (the "**Owner**") is listed as the owners of the real property described herein.

According to the real property records of El Paso County, you own or have an interest in the real property described in this notice. If you no longer own or have an interest in the property, you must execute an affidavit stating that you no longer own or have an interest in the property and stating the name and last known address of the person who acquired the property or interest from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Building Standards Enforcement Division of the Building Permits and Inspections, 5<sup>th</sup> floor, City Hall, no later than the 20<sup>th</sup> day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice.

The Owner of said property is hereby ordered to appear before the Building and Standards Commission and any mortgagees, lien holders, and other persons having an interest in said property are entitled to appear before the Commission at said date, hour, and place to show cause why said building should not be declared a nuisance and ordered to be abated. The Owner, lien holders, mortgagees, or any other person having an interest in the property is hereby required to submit at the hearing proof of the scope of any work that may be required to bring the building into compliance with Title 18, as mandated by Section 18.50 of the Municipal Code, and to specify the time it will take to reasonably perform the work.

At the hearing, the Owner, lien holders, mortgagees, or any other person having an interest in the property must present to the Commission any evidence showing that the structure or part thereof is safe.

All documents such as building plans, specifications, drawings, reports from design professionals and any other required documents must be presented to the Commission at this hearing.

The time periods, which govern the completion of work ordered by the commission, are outlined in Chapter 2, Subsection 2.38.080 of the Municipal Code of the City of El Paso, and pursuant to State law.

If the Owner fails, neglects or refuses to comply with the order of the Commission the City may pursue one, or more of the following actions:

- I) the city will perform any and all work needed to bring the property into compliance with this order, at its own expense, but for and on account of the Owner, of said property, the cost of which shall be assessed as a lien against the property and;
- II) assess a civil penalty against the property Owner for failure to repair, remove or demolish said building in an amount not to exceed \$1,000.00 a day for each violation, or \$10.00 a day if the Owner shows that the property is the Owner's lawful homestead; and
- III) appoint a receiver as permitted by state law; and
- IV) any other remedies permitted by state law.

Any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of the assessment until paid in full;

The City Clerk is ordered to provide notice of this hearing to the record Owner and all other persons having an interest in the property as provided by law.

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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Cynthia Osborn  
Assistant City Attorney

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Bill Stern, C.B.O.  
Chief Building Inspector  
Development Services Department

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice of Public Hearing regarding the property located at 3511 Polk Ave. was filed with the County Clerk's Office, the official public records of real property for El Paso County.

Richarda Duffy Momsen

Executed this \_\_\_\_ day of \_\_\_\_\_, 2009 on behalf of the City of El Paso, Texas, by Richarda Duffy Momsen in her capacity as City Clerk.

STATE OF TEXAS  
COUNTY OF EL PASO

Subscribed and sworn to before me, this \_\_\_\_ day of \_\_\_\_\_, 2009.

Notary Public

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice regarding the property located at 3511 Polk Ave. was PUBLISHED in the official City newspaper on the \_\_\_\_ day of \_\_\_\_\_, 2009.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 3511 Polk Ave. was HAND-DELIVERED to:

City of El Paso  
C/O City Clerk  
#2 Civic Center Plaza  
El Paso, TX 79901

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 3511 Polk Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Andrea Rodriguez  
4336 Buckingham Drive  
El Paso, Texas 79902

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 3511 Polk Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Governor of the Ysleta Del Sur Pueblo Indian Tribe  
AKA Tigua Indian Community  
119 S. Old Pueblo Road  
El Paso, Texas 79907

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 3511 Polk Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso Central Appraisal District  
5801 Trowbridge Ave.  
El Paso, Texas 79925

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 3511 Polk Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso County Probate Court  
500 E. San Antonio Avenue, Suite 703  
El Paso, Texas 79901

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 3511 Polk Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Delgado, Acosta, Spencer  
Linebarger, Heard & Perez, LLP  
Attn: Bonnie Cooper  
221 N. Kansas Suite 1400  
El Paso, TX 79901

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice was POSTED at 3511 Polk Ave., El Paso, Texas.

Date:  
Time:

Inspector

**ORDER OF THE BUILDING AND STANDARDS**  
**COMMISSION OF THE CITY OF EL PASO**

**WHEREAS**, the Director for Building Permits and Inspections of the City of El Paso has conducted an investigation and has reported to the Building and Standards Commission in writing that he is of the opinion that the structure located on the property at **3511 Polk Avenue** in El Paso, Texas, which property is more particularly described as follows:

**LEGAL DESCRIPTION: Lots 11 and 12, block 85, MORNINGSIDE HEIGHTS, addition to the City of El Paso, El Paso County, Texas**

is dilapidated, substandard, and unfit for human habitation; is a hazard to public health, safety, and welfare; does not meet the minimum standards for continued use and occupancy contained in 18.50 of the El Paso City Code; and

**WHEREAS, Andrea Rodriguez, 4336 Buckingham Dr., El Paso, Texas 79902**, record Owner, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before the Building and Standards Commission at 5:30 p.m. on **January 31, 2007**; and

**WHEREAS**, no one appeared.

**IT IS THEREFORE, ORDERED ADJUDGED AND DECREED BY THE BUILDING AND STANDARDS COMMISSION OF THE CITY OF EL PASO:**

1. That having heard the evidence, and being persuaded by a preponderance of same, the Building and Standards Commission makes the following findings:
  - A. That the structure located on said property is an urban nuisance; and
  - B. That the structure is not in substantial compliance with municipal ordinances regulating structural or service systems integrity and disposal of refuse; and
  - C. That in order to be made safe, all of the aforementioned violations must be corrected.
2. That the Building and Standards Commission hereby orders the structure's certificate of occupancy revoked and the Owner(s) to comply with the following requirements:
  - A. That the primary building and all accessory buildings be secured within thirty (30) days; and



- B. That the premises be cleaned of all weeds, trash, and debris within thirty (30) days.
- 3. That upon failure of the Owner(s) to comply with this Order, any mortgagees, lienholders, and/or persons having an interest in the property have an additional ten (10) days to clear the property of all weeds, trash, and debris, secure the structure on the property.
- 4. That upon failure of the Owner, mortgagees, lien holders, and/or any other person having an interest in the property to comply with this Order, the City of El Paso, through its Director for Building Permits and Inspections, shall:
  - A. Secure the primary and accessory structures; and
  - B. Clean the property of all weeds, trash and debris; and
  - C. Assess the cost of the work noted above as a lien against the property which will become due and payable within thirty (30) days of the date the City of El Paso completes the work; and
  - D. Provide for any other remedies permitted by State Law.
- 5. That upon failure of the Owner to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may request a hearing before the Building and Standards Commission to:
  - A. Determine the amount and duration of civil penalties the City of El Paso may recover for failure to comply with this Order as allowed by Texas Local Government Code Chapter 54; and
  - B. Provide any other remedies permitted by State law.
- 6. **RIGHT TO APPEAL:** *The decision of the Building and Standards Commission is final (see discussion of rehearing, below). An appeal may be filed by verified petition in State District Court, setting forth that the decision of the Commission is illegal, in whole or in part, and specifying the grounds of the illegality. Petition for appeal must be filed by the owner(s) or interested party within twenty (20) days of receipt of notice of the Order of the Commission. Appeals in District Court are limited to hearings under the substantial evidence rule.*

*A rehearing by the Building and Standards Commission may only be granted in the following circumstances:*

- A. *Proper request is made within twenty (20) days of receipt of notice of the Order of the Commission; and*

***B. Rehearing fees of five hundred and forty dollars (\$540.00) are furnished with the rehearing request. The Building and Standards Commission may waive these fees in cases of financial hardship based on written affirmation from the applicant.***

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that the City Clerk shall cause copies of this Order to be served on the record owner(s) and all other persons having interest in the property as provided by law.

According to the real property records of El Paso County, you own or have an interest in the property described in this notice. If you no longer own or have an interest in the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the twentieth (20<sup>th</sup>) day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice.

**ADOPTED on this 31st day of January 2007.**

**BUILDING AND STANDARDS COMMISSION**

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Tedd Richardson, Chairman, Panel **A**

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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Roberta B. Cross  
Assistant City Attorney

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Bill Stern, C.B.O., Chief Building Inspector  
Development Services Department  
Building Permits & Inspections Division



# **UNSAFE STRUCTURES REPORT**

## **BUILDING PERMITS AND INSPECTIONS**

**DATE OF EXAMINATION:** August 17, 2009

**ADDRESS:** 3511 Polk, El Paso, Texas 79930-3428

**LEGAL DESCRIPTION:** Lots 11 and 12, Block 85, MORNINGSIDE HEIGHTS, addition to the City of El Paso, El Paso County, Texas

**OWNER:** Andrea Rodriguez

**ADDRESS:** 4336 Buckingham Drive  
El Paso, Texas 79902

**BUILDING USE:** Abandoned, single-family dwelling

**TYPE OF CONSTRUCTION:** V, Adobe walls with wood frame roof.

**FOOTINGS:** Unable to determine.

**CONDITION:** Unable to determine condition of footing due to subterranean placement.

**FOUNDATION WALL:** Concrete

**CONDITION:** Fair. Signs of cracks on the walls indicate possible settlement of footings and foundation walls.

**FLOOR STRUCTURE:** Wooden floor

**CONDITION:** Poor. Floor system is deteriorated and has collapsed due to lack of maintenance.

**EXTERIOR WALLS:** Adobe, stucco/brick

**HEIGHT:** 10' +/-

**THICKNESS:** 8" - 10" +/-

**CONDITION:** Poor. Signs of cracks exposed underlying adobe and vegetation growing through.

**INTERIOR WALLS & CEILINGS:** Wood frame, plaster, drywall.

**CONDITION:** Poor. The walls are full of mold and the ceiling has collapsed exposing the wood decaying members.

**ROOF STRUCTURE:** Flat roof, wood frame with rolled composition roofing.

**CONDITION:** Poor. The roof assembly and coverings have collapsed due to lack of maintenance and exposure to the elements. A registered roof contractor must be hired to evaluate roof system.

**DOORS, WINDOWS, ETC.:** Wooden doors and metal casing windows.

**CONDITION:** Poor. Most of the windows and doors are broken and need to be replaced.

**MEANS OF EGRESS:** Does not meet Code.

**CONDITION:** Fair.

**PLUMBING:** Unable to determine condition. A licensed plumbing contractor must be hired to evaluate the entire plumbing system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

**ELECTRICAL:** Unable to determine condition. A licensed electrical contractor must be hired to evaluate the entire electrical system and submit a report to this department on the corrective action required to bring the system up to minimum code and compliance.

**MECHANICAL:** Unable to determine condition. A licensed mechanical contractor must be hired to evaluate the entire mechanical system and submit a report to the department system and submit a report to the department on the corrective action required to bring the system up to minimum code compliance.

**IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED:** None

**WARNING POSTED:** No

**BARRICADED:** No

**POLICE AID REQD.:** No

**REMARKS:** On January 31, 2007, the Building and Standards Commission condemned the property to be secured. The department recommends that the main structure and carport be demolished within thirty (30) days. That the property be cleaned and maintained clean within thirty (30) days.

Nellie Avalos

**Building Inspector**